

January 30, 1975

the contest of election. We have jurisdiction. Now can we use the Statute, requiring the filing of a bond within ten days, to deny the hearing of the contest of election and to resolve the questions that were presented by the contest. Perhaps we can and we probably will. But we will be wrong. This Legislature will be diminished. The powers and responsibilities and obligations, given to this Legislature by the people in the Constitution of the State of Nebraska, will have been violated. Senator Murphy, I do not speak here today as a Supreme Court justice. I speak here as a member of the Legislature. There are many men who sit in this body who have been here a long time, and who love this body, and who respect the powers and responsibilities that the people have given to them. But I fear they do not understand those powers and responsibilities. I think there is no man here who loves this body more than Senator Burbach or Senator Marvel. Senator Marvel says we cannot construe the Constitution. But, we do every day, and we are told to do it every day by the people. They wrote the Constitution for us to read, and for us to follow. They said in the Constitution that we shall judge the election and returns. Why did they say it? Did they say that ~~you'll judge~~ the election and returns if a bond is filed? No. They said you shall judge. They said it because they constituted us to make the laws that they will live with. They determined that no court, and no executive, and no secretary of state shall decide who sits in this body. Only the people shall decide. Once the people have decided on each of us, they ensured to themselves that no other man would sit here whom the people had not chosen, because we who were sent by the people would ensure that for them. We would decide that every man who sits here, sits ~~here~~ as we sit here. That his powers come from the majority of the people who voted in his ~~district~~. No one else shall sit here and no one else shall make laws for those people, and no obstruction that this Legislature can concoct will ~~prevent~~ that responsibility. I do not speak as a Supreme Court justice who interprets the Constitution. I speak as a member of the Legislature who was told by the people to follow the Constitution. I will do that. I will do that every day I sit here and every one of you have got the same responsibility. There is no way you can avoid it. Senator Koch asked, is the failure of bond -- is the requirement of bond due process. It may and it may not be. The requirement of bond in this case is to secure the payment of the cost should the contestor lose. He has the obligation. The requirement of the bond prevents and defeats due process if it obstructs the fulfillment of any other provision of the Constitution. Due process to Senator Nichol is the same as to the contestor Terry Carpenter. Due process, in this case, fairness in this case, justice in this case, is that that the man who sits in this Legislature from the 48th District is the man who was elected by the majority of the people of the 48th District. We cannot rightly do otherwise.

Mr. Chairman, I move the adoption of my motion.

PRESIDENT: Senator DeCamp, for what purpose do you arise sir?